In the Supreme Court of the United States

OCTOBER TERM, 1961

No. 701

UNITED STATES OF AMERICA, APPELLANT

v.

GEORGIA PUBLIC SERVICE COMMISSION

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

BRIEF FOR THE UNITED STATES IN OPPOSITION TO MOTION TO AFFIRM

In the motion to affirm appellee argues "that the *economic burden* imposed upon the United States [by sections 613 and 614 of the Georgia Motor Vehicle Code] is indiscriminate and incidental" and does not constitute a "direct interference" with the activities of the government (p. 6, italics added; see pp. 11-15). This argument does not meet and in no way contravenes our contention that the Georgia rate-fixing statutes directly conflict with "the federal regulatory scheme providing for negotiation of rates" (J.S. 16) and directly burden the operations of the government by forcing transportation officials to comply "with one set of procedures for handling [goods]

CONCLUSION

Appellee admits that resolution of the problem involved in this case "will have nationwide influence" (motion, p. 4). The district court recognized that the conflict among the courts over whether federal transportation of household goods is governed by *Pyle-Barnes, Inc.* v. *Mill Control Commission*, 318 U.S. 268, or *Public Utilities Commission of California* v. *United States*, 355 U.S. 534, must be resolved by this Court (see J.S. Appx. V, pp. 29-30). Therefore, since the decision below admittedly "raises questions of wide-spread importance in the management of the government's extensive transportation operations" (J.S. 13; footnote omitted), probable jurisdiction should be noted.

Respectfully submitted.

ARCHIBALD COX,
Solicitor General.

MAY 1962.